

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

EIGHT MILE STYLE, LLC; MARTIN AFFILIATED, LLC,)	
Plaintiffs,)	
v.)	Civil Case No. 19-cv-00736
SPOTIFY USA INC., HARRY FOX AGENCY, LLC,)	Hon. Aleta A. Trauger
Defendants.)	<u>JURY DEMAND</u>
SPOTIFY USA INC.,)	
Third-Party Plaintiff,)	
v.)	
KOBALT MUSIC PUBLISHING AMERICA, INC.,)	
Third-Party Defendant.)	

MOTION FOR ENTRY OF FINAL JUDGMENT

Third-Party Defendant Kobalt Publishing America, Inc. (“Kobalt”) respectfully moves the Court to enter final judgment on Defendant/Third-Party Plaintiff Spotify USA Inc.’s (“Spotify’s”) breach of contract, indemnification, and anticipatory repudiation claims (together, the “Claims”) against Kobalt, upon which judgment was not entered due to this Court’s Order, (ECF No. 705),

dated August 15, 2024, holding that adjudication of Spotify's fee and cost application would first be required.¹

Under applicable Supreme Court precedent, namely *Ray Haluch Gravel Co. v. Cent. Pension Fund of the Int'l Union of Operating Eng'rs*, 571 U.S. 177 (2014), if the only remaining issue on a claim is a determination of an award for attorney's fees, even those that are in the nature of damages on a breach of contract claim, a final judgment may be entered and an appeal taken unless the Court issues an order requiring determination of that fee award prior to entry of final judgment, consistent with Federal Rule of Civil Procedure 58(e). That is what occurred here. However as discussed in the accompanying Memorandum of Law, this Court may at any time reconsider that Order, and direct entry of final judgment on Spotify's Claims.

Given the policy objectives of Rule 58(e) cannot be obtained by delaying entry of final judgment, the fee application process will not be "speedy," and because further delay will cause substantial prejudice to Kobalt, Kobalt respectfully requests that the Court reconsider that portion of its Order delaying entry of judgment until the resolution of Spotify's attorney-fee damages, and instead direct entry of final judgment and permit Kobalt to appeal as of right.

Pursuant to Local Rule 7.1, counsel for Kobalt has conferred with counsel for Spotify regarding the instant request. Counsel for Spotify has advised that his client opposes the instant request.

Respectfully submitted,

s/ Robb S. Harvey

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¹ As this Court is aware, Kobalt moved to certify an interlocutory appeal on Spotify's Claims, which this Court granted; the Sixth Circuit denied Kobalt's petition for an interlocutory appeal. This motion seeks different relief.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was submitted via the Court's ECF system on March 11, 2025, which is expected to provide notice to all counsel of record, including the following:

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